

**SPECIAL MEETING
BOARD OF MAYOR AND ALDERMEN
(PUBLIC HEARING – REZONING)**

September 29, 2003

7:00 PM

Chairman O’Neil called the meeting to order.

Chairman O’Neil called for the Pledge of Allegiance, this function being led by Alderman Shea.

The Clerk called the roll.

Present: Aldermen Gatsas, Sysyn, Osborne, Pinard, O’Neil, Lopez, Shea,
DeVries, Garrity, Smith, Thibault, and Forest

Absent: Aldermen Wihby, Guinta

Deputy Clerk Johnson stated for the record I would like to note that Alderman Wihby is not here. He is recovering from some complications in surgery. He requested us to notify the Board of that and also to advise that he is suggesting that all of the items at this hearing this evening be referred directly to the Board so we will either poll the Committee or bring the items directly to the Board at the next meeting.

Chairman O’Neil advised that the purpose of the special meeting was to hear those wishing to speak in favor of or in opposition to proposed Zoning Ordinance changes; that the Clerk will present the proposed Zoning Ordinance changes for discussion at which time those wishing to speak in favor will be heard, followed by those wishing to speak in opposition; that anyone wishing to speak must first step to the nearest microphone when recognized and recite his/her name and address in a clear, loud voice for the record, that each person will be given only one opportunity to speak; and any questions must be directed to the Chair.

The Clerk presented the first proposed Zoning Ordinance change:

“Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to B-2 (General Business) by extending the B-2 zone district to the center line of Huse Road and Merrill Road, including parcels identified as TM 666, Lots 2B, 6, 6A, 7, 8, 9 & 9A.”

Chairman O’Neil requested that Robert MacKenzie, Director of Planning, make a presentation.

Mr. Robert MacKenzie stated this proposal is to change the City zoning ordinance from its current zoning, which is IND or General Industrial to a business zone, B-2. To orient you,

this is one wing of the Mall of New Hampshire. South Willow Street comes down southerly. Huse Road heads up towards the highway. The area requested includes all of the properties of Harvey Industries. We also discussed with them the possibility of rezoning the Public Service Company substation because once this becomes zoned B-2 that would leave a slice of land that would be one piece of land and could potentially be considered spot zoning. It would not appear possible to us that in the future that would be developed retail because of its function but to keep the zoning map clean we had recommended to the applicant that they should rezone that area as well. B-2 is a General Business zoning district. It allows a number of types of operations, primarily retail and office and restaurants. It is likely that given this location so close to the Mall of New Hampshire there would likely be interest in converting this to a higher level retail. You will note that there is a residential neighborhood up to the northeast of the property. This is the Karin/Valentine area. It is generally a single-family neighborhood with streets running off Huse Road. There is also the power line. You can see the undeveloped area here, which also includes the power line. There is the mobile home park, which is actually within the zoning district and just so that you are aware of the other uses there is a new hotel behind the Marriott and this particular photo does not have the Olive Garden restaurant that is located right here. That is all I had to present on this. I would be happy to answer any questions.

Alderman DeVries stated I just want you to go through one more time the PSNH substation. You indicated that it is not likely that that would become retail. Tell me more. What would be the cost involved and is it more than just not likely? I would want to hear that it is not possible or highly unfeasible.

Mr. MacKenzie responded I would probably term it highly unfeasible. I do know when we were dealing with the Mall of New Hampshire expansion that that was a critical substation in the entire grid of the Public Service Company and finding an alternate location to put that would be highly unlikely. There are no regulatory restrictions on keeping that or I am not aware of any particular deed restrictions on the property but the likelihood of that changing over would be extremely small.

Alderman DeVries asked so in order to relocate that substation they would also have to relocate those...are they high tension lines I believe that go up through the Cohas swamp.

Mr. MacKenzie answered yes they are.

Alderman DeVries stated so both of those entities would have to be relocated in order to move one.

Mr. MacKenzie responded correct.

Alderman DeVries stated so that is highly unfeasible.

Mr. MacKenzie responded highly unlikely.

Alderman Lopez stated from Industrial B-2...we don't have any industrial and we are running out and we are going to change it to B-2. The first request there was a fee that was paid. Did Public Service of NH also pay a fee?

Mr. MacKenzie responded there was a fee paid to do the abutters notice and the public notice in the newspaper. Normally, one application only needs one fee even if there are multiple owners. If it is one application, only one fee is paid.

Alderman Lopez asked so all of the abutters of this land have been notified.

Mr. MacKenzie answered that doesn't come out of our office so I could not answer that.

Alderman Lopez asked can anybody answer that question.

Chairman O'Neil asked how are the abutters notified.

Deputy Clerk Johnson answered when a rezoning petition is submitted what we do is we get an abutters list from the petitioner and we send out a notification to those abutters that a hearing is going to be held and we have received a petition and give them a copy.

Alderman Lopez asked so all of the abutters for this piece of property have been notified.

Deputy Clerk Johnson answered yes the abutters to this property would have been notified. They would have been sent...it is not a legal notice it is an informational notice to let them know that it has been filed.

Alderman Lopez stated when we passed the ordinance that was one of the things we said we wanted.

Deputy Clerk Johnson responded we have been doing that for any rezoning ordinance that has been submitted to the Clerk since the time of the adoption of the ordinance.

Alderman Lopez stated looking at Item 5 here I don't see any documentation in reference to the economic or environmental impacts in accordance with the ordinance 16.02. Even on any zoning there has to be a complete explanation and I don't consider this really an explanation on any of these. The point that I want to make here for the Board is when we passed this zoning ordinance we seemed to be getting a lot of requests for rezoning and not having a clear cut understanding of everything that we are supposed to have. I think if I recall and maybe some people can recall that we went through this process when the

ordinance was being adopted, when the first zoning change came in back in 2001 as to who was responsible and the Planning Board or Planning Department was responsible to make sure that everything was in order before it came before us. Just to stipulate what you have stipulated here without any impact on the schools or businesses or the highway or trash or anything...I don't see any documentation in any of this and all we are doing is going through the motions and making this presentation. I don't know where Exhibit A is. I guess that is the diagram itself but the paperwork seems to be thrown together and we are supposed to...at least I am supposed to figure out everything on it. I think that we need some procedures better than what we have been receiving for rezoning because I think one of the questions that is being prepared is how many rezonings have we done and how many have been rejected and some type of standard procedure has to be put in place so that we understand each and every one of these. Mr. MacKenzie, I will tell you that this is not, in my viewpoint, complying with the ordinance that we have adopted and to make sure that we are getting the right information to make an intelligent decision. Do you think Item 5 does that?

Mr. MacKenzie asked when you say Item 5 are you saying Item 5 on the agenda.

Alderman Lopez answered I am talking about your memo. I believe it is your memo or somebody's memo. I don't see a name on it.

Chairman O'Neil stated it is not even the right rezoning that is with this. Am I reading this right? Candia Road is stuck with this one. That is part of the problem here.

Alderman Lopez stated the point that I am making is on any rezoning under 16.02 the requirement for any amendment on any rezoning there are seven requirements that have to be made. Do you agree with that Mr. MacKenzie?

Mr. MacKenzie responded I believe it is important to get the information. It is normally incumbent upon the applicant to provide that information.

Alderman Lopez stated the point I want to make here is that somebody has to be responsible. It is not the applicant because these applicants are going to come in here everyday of the week and try to pass something because some staff member reviews it and says yes it is a great deal for the Mall of New Hampshire or whatever the case may be but under the ordinance what I am speaking of is 16.02, which has seven requirements before any of this comes before the Board of Mayor and Aldermen. That issue was taken up with Alderman Wihby, Alderman Cashin and it seems that we are just pushing things through here and we don't completely understand them. Are we going to comply with the ordinance that has been adopted by the Board?

Chairman O'Neil stated this discussion does not belong here this evening I don't believe. This is something that either belongs in the Bills on Second Reading Committee or...I am

not saying you are wrong. We can have the discussion you are talking about. I am just not sure the public hearing tonight is the proper place for that. We are supposed to get input from the public and refer it to Committee and then later to the full Board.

Alderman Lopez stated I think the Clerk said that these were going directly to the full Board. The only point I am trying to make and this is really a public hearing and we haven't heard from the people who are against it or for it but my issue is for the Board of Mayor and Aldermen to receive documentation that doesn't comply as far as I am concerned with 16.02 of the ordinance that we adopted, I think it is wrong for us to sit here and listen and then go to the full Board and try to make a decision. I don't think the work has really been done on this.

Chairman O'Neil stated if the paperwork is not in order it is either going to get held up at Committee or the full Board and it won't move forward. Bob, why don't you respond and then I would like to kind of get us back on track here this evening.

Mr. MacKenzie stated I think it is useful to have that information that is suggested in the zoning ordinance. The Board has talked about the potential need for information in the past. It is not specifically incumbent on any particular department to oversee that, however. That has been discussed a couple of times. Certainly our staff load is such that it would be very difficult for us to do a full analysis of it but if the Board directs us to or passes the appropriate ordinance to do it we would try to do that but at this point it is not incumbent upon our department to do that. We do try to sit with the applicants when we are aware of these rezonings and explain the process and explain what they may need but it is ultimately incumbent upon the applicant to provide the information that you need to make an informed decision.

Chairman Thibault asked so whether the applicant has their paperwork in order we have a scheduled public hearing and we should proceed with that. If the applicant's paperwork is not in order than it will stay tied up in Committee or the full Board if that is where this goes. Alderman Lopez I would like to bring some closure to this.

Alderman Lopez responded I completely understand but I think this is a very important issue and I want to address it because I think it is the businesses in the City of Manchester that are going to affect our schools, our fire, our garbage and everything else. I think that a decision to consider an amendment under 16.03 and Mr. MacKenzie you may want to address this "whether a proposal for an amendment is initiated by any other source other than the Board of Mayor and Aldermen, a decision must first be made by the Board of Mayor and Aldermen whether to give formal consideration of such an amendment." Now without all the documentation how can we go forward and just say yes to something that at least this Alderman doesn't know what he is saying yes to without the impact from item 5 of 16.02? Would you agree with me or not?

Mr. MacKenzie replied unlike the Planning Board or Zoning Board of Adjustment, there is no state statutory time limitations for a Board to act on a rezoning request. The Board could consider this a preliminary hearing to gather information and decide whether it is worth proceeding or not. At times there has been a hearing and it has gone to Bills on Second Reading and the Bills on Second Reading Committee has determined that it is inexpedient to legislate. Until you hear all of the information that typically would come at a hearing it is hard to proceed in any direction. There are no state statute guidelines on how the Board should proceed. Sometimes Bills on Second Reading has met before an application has come in and determined that it was not appropriate to have a hearing. That if you would like a prescreening process would be the appropriate way to do it – at Bills on Second Reading.

Alderman Lopez stated well I disagree with you but go ahead Mr. Chairman.

Alderman Thibault stated my thing is why wouldn't this go to a Committee to be explored if there is a problem. Maybe Bills on Second Reading is the place.

Chairman O'Neil responded I think what the Clerk pointed out is with Alderman Wihby's problems with surgery he is maybe suggesting that it goes right to the full Board because he could be laid up for a little bit.

Alderman Thibault asked this new section that you are proposing be rezoned to B-2, what kind of impact would that have on the tax rate if any.

Mr. MacKenzie answered the applicant is not bringing forth a specific shopping center. They are just asking that the land be rezoned. I can tell you that generally speaking the land values will be higher zoned B-2 than Industrial but in terms of the building value it really depends on the project that is being proposed. This particular property has a fairly high floor area of building on it. It is not quite to the level that a retail building would be but there is a lot of space. In general, you would normally see higher property values under B-2 but that is not 100% of the cases.

Alderman Smith stated we received this letter back on July 8 and there was a motion by two Aldermen to refer it to a public hearing in September and to Bills on Second Reading. Now I assume from what I understood that all the information was sent out to the abutters so there is no problem with that. I think what they are doing is they want to add in the Public Service land so that it will all have the same zoning. Am I correct?

Mr. MacKenzie responded correct.

Alderman Smith stated and that is the only change from July.

Chairman O’Neil replied I can’t tell you for sure that it went out to all the abutters. I think there is a little bit of a law on our process that we need to clean up.

Alderman DeVries stated I just wanted to bring to light also that since these public hearings on rezoning are not covered under state statute as Bob MacKenzie noted, the abutter notification is also not covered under the state statute. It is a voluntary procedure that this City has elected to do versus the Planning Board or ZBA hearings where it is strictly laid out who will be notified and in what timeline and fashion. The one thing that is not clear to me is if we have adopted a local ordinance and we change anything after the fact of a public hearing do we need to go back through the process of a public hearing similar to the Planning Board? Are there any restrictions or is that again voluntary?

Mr. MacKenzie responded the past practice has been...sometimes the Board has negotiated with an applicant to shrink the size of the rezoning and the City Solicitor has ruled that it is okay to shrink the size of a rezoning but if you are going to expand it or add in other parcels that would have to go back to a hearing.

Alderman DeVries stated my question was more in line with the supporting documentation. If it was not supplied to the abutters but yet was supplied to the Committee and/or full Board later does that cause a need for a rehearing process? It would trigger that at Planning.

Mr. MacKenzie replied again there is no state requirement for notification to abutters so it is whatever procedure the Board decides it would like to provide. If it is a one-page notice then that is all that is required.

Alderman DeVries stated so what you are saying is if we perceive that we need a further explanation but not a critical change in what was presented here tonight then it would render no legal requirement to go back through a public hearing. We can look at any additional evidence that further explains what is before us tonight?

Mr. MacKenzie responded that is correct.

Alderman Gatsas stated I believe...as a matter of fact it was the Chairman of the Board who probably two years ago when we came up with these same problems with rezoning that it was my understanding that the Board had made a directive to Planning that you would do the initial mailing to the abutters and be responsible for that. That is my recollection and that the applicant would be paying for that. I believe my colleague, Alderman O’Neil is nodding his head. I think that is what we decided so this confusion wouldn’t happen again. I guess we are back to square one that Planning is supposed to send the abutters a notice and that was my understanding. Maybe it has already been set with precedence and maybe we forgot and that is okay. Bob, how many acres are in this parcel?

Mr. MacKenzie responded this particular one is a little over 10 acres.

Alderman Gatsas asked what is the square footage of the building that is on there now.

Mr. MacKenzie answered I do not know.

Alderman Gatsas stated 10 acres of industrial in today's marketplace is worth how much.

Mr. MacKenzie responded it was over \$100,000 for awhile but now I would say on average \$100,000 an acre.

Alderman Gatsas asked how much is it worth as a B-2 zone.

Mr. MacKenzie answered it depends on who the willing buyers would be but in this particular area it could be as high as \$400,000 an acre.

Alderman Gatsas asked so the impact that we would be making to Huse Road or the traffic impact...I have a problem obviously that we are rezoning something without understanding what that impact to a neighborhood would be or to the road and we are just about four times the value of the property with one felt swoop without understanding what the impact is going to be. Is it your recommendation that before we know what goes there to rezone it so we can't adjust for impact on traffic?

Mr. MacKenzie answered the process in New Hampshire and most states is that an applicant can request their property to be rezoned without telling you what is going to be built there and there have been court cases on it. Typically a rezoning you will not know. It is easier and in some cases or frequently it has happened that the Board gets to see what that project is going to be. For example, the Shaw's rezoning we knew what the project was going to be there but it is not incumbent upon an applicant to tell you or show you what is going to be there. You may ask the applicant. They are here tonight and they will probably be speaking so you can ask them.

Alderman Shea stated I think that what Alderman Lopez was going into probably hits more upon the statement of impact on City municipal services and facilities in the next type of hearing we are going to go into but Bob when the rezoning is taking place does anyone do an impact study in terms of what Alderman Gatsas is referring to, traffic impact or any other...is that done at all by anyone.

Mr. MacKenzie responded not normally because they don't know the specific project. I was handed tonight from the applicant a preliminary traffic assessment but again this will give some good information for the Board to use as a benchmark but typically it would not be until the Planning Board sees an application that they would know the exact number of cars

that would be generated by a project. They probably do not have even a perspective buyer at this point. So you would not normally know the full traffic impact until the Planning Board got to see an application.

Alderman Shea asked are there any other impacts that obviously should be called to the attention of the Board here by your office.

Mr. MacKenzie answered I think the biggest impact in this type of project, if it is not residential because certainly residential has a bigger impact on schools, etc. but traffic impact is normally the number one issue. Sometimes there are safety issues dealing with either fire or police but pretty much the traffic impact and the ability of the road system to handle additional impact is the prime factor that the Board would be concerned about and sometimes the issue of whether the residential neighborhood is going to be impacted by that additional traffic. Those are probably the two key issues that usually come up.

Alderman Shea asked so timing is critical in terms of whether or not a decision in terms of what information is known by either the Committee making a recommendation or the full Board before the fact rather than after the fact is critical. Is that your opinion?

Mr. MacKenzie answered as much information as we can get, if the applicant knows a perspective buyer that is usually very helpful but again probably in the majority of cases they will not know who the prospective applicant is but between now and the time it goes to Bills on Second Reading if Board members have specific requests they could ask the applicant to provide that to the Committee that it would be going to.

Alderman Shea stated but my understanding is this is going to be jettisoned right to the full Board and not go through Bills on Second Reading. Is that correct? Isn't that what Alderman Wihby is indicating?

Chairman O'Neil responded he had suggested that because of his health issues in order to keep things moving these go directly to the full Board. Is that correct?

Deputy Clerk Johnson replied that is correct.

Alderman Shea asked can the Bills on Second Reading Committee meet without the Chairman.

Deputy Clerk Johnson answered it could.

Alderman Lopez asked could the City Clerk send the minutes of 8/7/01 Bills on Second Reading Committee to the Board so they can read it. One thing I want to point out from that meeting, which was a very bad meeting for lack of another word is that on motion of

Alderman Cashin duly seconded by Alderman Pinard it was voted to have the Planning Department review all zoning ordinance change requests prior to the public hearing. That is the point I want to make because if we go back to the ordinance and we have 16.01 and 16.02 and 16.03 it is very critical that without those three components...if you read 16.01 and 16.02 and 16.03 you will see what I am talking about. I don't want to take the Board's time to read everything here but it is very important so that we can make logical decisions that are good for Manchester. I don't see anything in here from other departments. How does it affect them? How does it affect the City? That is what I am talking about.

Alderman Gatsas asked Mr. MacKenzie doesn't it seem odd to you that there is not one abutter in the room that is in favor of or opposed. I would think that some of the people living down on Leo and Karin Street and those streets would be in here worrying about changing this from industrial. They know that Harvey Industries is currently there. They know the traffic pattern that is created by that.

Mr. MacKenzie answered if I were to look at abutters for this project there would only be about a handful. There would be the Mall of New Hampshire, the Marriott Hotel, the mobile home park but all of the people on Leo and Theophile and Valentine and Karin Streets would not be because a definition of an abutter is properties immediately touching the property or immediately across the street. You would not have a large number of abutters for this particular project.

Alderman Gatsas stated I would think you would have someone from the trailer park if they were all notified.

Mr. MacKenzie responded that is not individually owned. There is only one owner of the trailer park. It is possible that the residents who live there might not have even been aware of it. There is one owner of the whole trailer park.

Alderman Gatsas asked are you saying that those people in that park are not paying real estate taxes to this City. Yes they are?

Mr. MacKenzie answered there is somebody who owns the trailer park.

Alderman Gatsas stated every one of those units is paying real estate taxes. They may not be paying land taxes to the City but they are paying real estate taxes to the City, which I would assume has them as an involved person as an abutter. No?

Mr. MacKenzie responded I can't answer that. I didn't review the abutters list or deal with it.

Alderman Gatsas asked so if there is a planned unit development the only person that you would send a notification to would be the person who owns the land, the planned unit development and not the individual owners.

Mr. MacKenzie answered that is correct. That is by state statute. We notify the officers of the association or the officers of the planned development. Typically there are three officers that have to be notified.

Alderman Gatsas stated it sounds like Senate Bill 1.

Alderman DeVries stated I have a couple of questions. I do believe there is a condo association in the trailer park and I think we found out in the Dobles rezoning that the condo associations do need to be notified so I would hope that the City Clerk can tell us that the association and not just the property owner was part of that and if not I will ask that of the individual who put the proposal before us when they come before us. I just also wanted to note that if people would take a look at the map of these properties in front of us you will see that there is quite a large segment of connectivity to the Mall of New Hampshire. I have no idea what the proposal is for this but I would have to assume that it might be something in conjunction with the existing Mall of New Hampshire, all of which exits directly on to South Willow. In fact, that was quite contentious to protect those neighborhoods and to not allow any access from the mall on to Huse Road previously. That is a battle that has been fought in the past. That is a battle that comes before the Planning Board when they do come before us to deal with the traffic impacts and how that would go. I realize that we do not know what is coming before us and we don't know if they are looking at doing business with their direct abutter but there is a high likelihood that it will be part of the existing footprint of the mall I would have to assume.

Alderman Thibault asked, Bob, isn't it up to the Planning Board to put restrictions on any new development that happens in an area such as this. Let us suppose that this is rezoned and then whoever buys this property makes an application to the Planning Board. How many people are on the Planning Board now?

Mr. MacKenzie answered there are nine full-time members and four alternates.

Alderman Thibault stated these people are the ones that will look at this plan and make whatever restrictions like if you need an extra light or whatever for traffic. Isn't the Planning Board supposed to look at these things and make recommendations as to what has to happen before that plan can go through?

M. MacKenzie responded yes. They will review the entire plan, the public improvement that might be required on street, and get into details on traffic studies. The only thing they

wouldn't do is be able to say this should be residential or this should be industrial. That is the basic question of the Board of Mayor and Aldermen.

Alderman Thibault stated I guess maybe what I am saying is a lot of these questions are very pertinent to what is happening there and not knowing what is happening are very important questions but I think they should be directed to some Committees to answer the policy of what this Board is going to do rather than coming here at a public hearing. Now that is my idea. I think that they are all great questions, they are all valid questions but they should be sent out to whatever Committee and if we have a problem with Bills on Second Reading right now maybe the Clerk could advise us as to another Committee that might be able to look at this in Alderman Wihby's absence. I just think that it doesn't belong at this public hearing. I think we are lengthening this public hearing for no reason.

Alderman Pinard stated I think it is about time that we move and I would like to make a motion to grant the rezoning.

Chairman O'Neil responded we don't need that right now. Does anybody have any further questions for Mr. MacKenzie? I have been informed by the Clerk that they believe they have the correct information. It has been suggested that we move on to the other rezonings but I think we are a little hot on this one and we probably need to stay on this one.

Deputy Clerk Johnson stated perhaps then you could let the developer speak while we get copies of the other information, which Leo is providing. The developer has signed up to speak in favor.

Chairman O'Neil called for those wishing to speak in favor.

Mr. Nicholas Lazos, 364 Paquette Avenue, Manchester stated:

I am the attorney for Harvey Industries, Inc., which is the current landowner of a portion of this property not including the Public Service Company parcel. To my left is Tom Russell who is the Vice President of manufacturing for Harvey Industries. If you don't mind, I sort of have a quick list of questions that the Aldermen have raised this evening and I believe I can give you some comfort as to what that information is and how we proceeded to get here. The first thing is the issue of notice. I personally researched the Assessors records to determine all of the abutters under state law. What I did was I took all the tax maps for all of these properties and I located all of the abutters and I extended it beyond the normal requirements of the noted statute of New Hampshire. I gave notice to people up on South Willow Street. I gave notice to all of the parties in the Mall of New Hampshire and I listed also people going up Huse Road including to answer the question about the Huse Road Manufacturing Housing Cooperative, which I believe is the mobile home park so they did receive notice as well as a couple of individual owners there who were listed in the tax records going up in that direction. I believe I have listed and I researched everyone who

could possibly be given required legal notice in New Hampshire for Planning Board or other public notice, including the informal notice that the Aldermen have required in the zoning ordinance. The application this evening is a little different. I think a number of you have jumped to conclusions about what the purpose of this rezoning is. Harvey Industries has absolutely no interest in moving right now. The reason for this request is a year long planning process that Harvey Industries is doing. I think you all know that you can expect that Harvey Industries is doing very well. In fact, their operations are growing. They are doing quite well in this economy. They recently built and occupied a new facility up at East Industrial Drive of about 90,000 square feet. As part of their planning they are a closely held company. They are a very small number of owners and they believe that it is appropriate to do planning in a timely fashion so that when decisions are made they are not made in a rush or they are not made in haste so they requested that I help them approach the Board concerning the rezoning of the property. I think one of the issues here is is it really appropriate to rezone the property. The answer is yes. This property is surrounded to the north by the Mall of New Hampshire in a B-2 zone, and it also has a B-2 zone across the street. It also has a number of hotels that have been built up along Huse Road and essentially the property is now almost completely surrounded by B-2. I think my clients have realized that the highest and best use of this property is as B-2 property. Alderman Gatsas asked a question about what the current value of this property is. The City of Manchester has it assessed at a little over \$8 million including the buildings and the land and that is what my client is paying taxes on. They did not ask for a reassessment or an abatement and that value is the current value that we have on the property. I don't think there is any windfall going to anyone if that is the implication or the inference that anyone wishes to make here from this and as I said no one has any plans to move this facility from its current location. So Alderman Lopez one of the reasons why you don't have a significant amount of information is because nothing is changing other than the zoning. The operation will continue. The manufacturing will continue. There is not going to be any expansion of the buildings. No buildings are going to be torn down. That is sometime in the future. We did meet with Mr. MacKenzie very early in this process and we asked him what kind of information he would like to see understanding that there was no potential buyer, there is no potential user, there is no plan for a mall or a big box or anything like that and he asked us to do a traffic analysis, which will give a baseline of information for the Planning Department. As I indicated in the memorandum, these issues will be planning issues that will come up at the time in the future when this property goes up for sale and a specific project would be approved. There is a question that Alderman DeVries mentioned concerning access to the Mall of NH immediately behind the property. The area that is related to the Mall of NH is up in the back here. If one were to go back there and take a look at the property, the difference in height is approximately 30' and there is a guardrail up there along the outer edge of the Mall of NH property so it is extremely unlikely that anyone would be able to access back and forth from the Mall of NH to this property. This property will have to seek its access out to Huse Road and out to South Willow Street, which would be the main...that would be the main way that people would go largely because that is where the Interstate is much like the Mall of NH. I

believe I answered all of those questions. In addition, I was not aware that Alderman Wihby had suggested that this matter go directly to the full Board. My client would be happy to provide this Board or any Committee any information that you wish. We understand. We are here requesting that the Board rezone the property but as I said it really is appropriate that this property, which is now an isolated industrial piece which will never be used for industrial after Harvey Industries vacate be zoned to what it should be, which is B-2 at this point. We will address any questions that you may have at this time.

Alderman Gatsas asked, Atty. Lazos, how many square feet in that building now.

Atty. Lazos replied if you take the existing...there are two buildings on the site. It is approximately 220,000 feet on two floors. The building has two floors on it.

Alderman Gatsas stated I am just talking about the main building.

Atty. Lazos responded the main building has about 180,000...185,000 square feet.

Alderman Gatsas asked so when you were suggesting that I was making a reference that the value would increase can somebody tell me how many square feet are in the Mall of NH.

Atty. Lazos answered the Mall of NH I think has a little over 1,000,000 square feet.

Alderman Gatsas stated being the expert, Atty. Lazos, how much would a 185,000 square foot retail box be worth. Would it still be the \$8 million or do you think it might be valued at much more than that.

Atty. Lazos responded let me take a step back. I don't think this site could handle 180,000 square foot building. The best estimate we have been able to come up with with necessary parking because the parking requirement on the site for retail would be dramatically higher than an industrial site, we expect it would be something between 100,000 and 125,000 square feet of building on the site. As a practical matter, this whole building would probably have to come down to make room for the parking and the access ways and that sort of thing. We have estimated that perhaps the value would be...once finished with the buildings and everything else probably around \$14 million or something like that.

Alderman Gatsas asked so there would be some aggressive increase in value.

Atty. Lazos answered right to the eventual owner, not to Harvey obviously.

Alderman Gatsas asked you are not suggesting that they would sell it for less than \$8 million.

Atty. Lazos answered no one has put it on the market. As I told you, the Assessors assessed it for \$8 million and my clients swallowed real hard and left it that way. Part of the valuation is based on the sale of this ancillary building next door, which was sold by the owners of Harvey to the corporation. That was not an arms length transaction but my clients have essentially accepted the appraised value for purposes of taxation. We have not had any offers nor have we asked for any offers on the property.

Alderman Lopez stated I just want to make my point very clear. It is not against you coming in here and making a presentation at a public hearing. I object to the process that is being developed in order for me to make a decision and I don't believe, according to the ordinances that enough information has been provided for me to make a decision and information will be forthcoming to the Mayor and Aldermen on the number of zoning requests that we have granted and the number that have been rejected by the Planning Board without this Board seeing them. I think there is something wrong with the whole process here and I bring it to the Board's attention. The Building Department has concerns on a lot of the issues on zoning and it has to come to a head.

Alderman Forest stated we are asking all kinds of questions here. Why not just make a motion that we send it to Committee?

Chairman O'Neil stated we still have the public hearing to continue here.

Alderman DeVries stated maybe you can just help me. Is there a small pocket of wetlands in between PSNH or out behind the PSNH property? Some sort of a retention pond maybe for drainage?

Atty. Lazos responded I am not aware of any wetlands on our parcel. I couldn't tell you whether the Public Service piece has wetlands in the back there. It is likely because as I said the change in grade from the Mall to Huse Road is relatively dramatic there so it wouldn't be unheard of to see a wetland area. There is a wet area across the road obviously in the Cohas Brook area.

Alderman DeVries stated I think what I am trying to visualize would be between PSNH kind of at the corner where the two lots are meeting between Harvey and PSNH as it heads out towards Filenes. It seems like maybe there is part of a retention pond or something in there. Maybe part of the drainage from the Mall but that is an area that doesn't have that grade change that you were referencing up above. I was just trying to visualize it but that is okay. Thank you. It is not on your property.

Atty. Lazos responded looking at my plan I see a row of rip wrap along the northerly boundary that is in front of that stockade fence that the Mall has there. It is possible that that is the drainage system that heads down towards Public Service from the Mall.

Chairman O’Neil stated Atty. Lazos you mentioned that this all has to do with your client and their planning for the future.

Atty. Lazos answered yes.

Chairman O’Neil stated I don’t know if this is a fair question but I am going to ask it. In that same planning process what happens to the jobs that are currently on Harvey Road. I know that your client has made a significant investment in East Manchester and if they are in a position to answer it I would appreciate it and if not, I understand.

Atty. Lazos stated I will ask Mr. Russell to answer that because they have a lot of concern about their workforce.

Mr. Tom Russell stated I would say that any process we would undertake would begin with the understanding that our intention would be to not lose one employee. Any company is just a box without its employees. They have all been good friends of mine for 20 years or so so our intention is not to...it would not be advantageous to Harvey Industries to move and start over in a division that hires that many people that produce that good a product. If the requirement was to move somewhere and lose the employees then we would not move.

Chairman O’Neil stated I would hope that you would give this City every opportunity, if you come to that point, to allow us to work with you to try to find another location for you in the City of Manchester because your company and its employees have been an asset to this City. That is what I am concerned about is the jobs.

Mr. Russell responded it has been a very good relationship that we have been happy with.

Alderman Pinard asked, Mr. Russell, one question that I think the people in the City would like to know. How many employees does Harvey Industries have?

Mr. Russell answered in the one building that we have about 450.

Alderman Pinard stated I think the cooperation of this Board should be to stand behind Harvey Industries. My motion still stands.

Chairman O’Neil responded there is no need for a motion right now.

Mayor Baines called for those wishing to speak in opposition.

Billy Dodd, 181 Mammoth Road, Manchester stated:

I hadn't intended to speak on this one. I am here for the next one but I picked up some interesting tidbits in listening to this and Alderman Gatsas asked one of the important questions. What is the reason for rezoning it now if you don't fully intend to do something with it in the very near future? If this piece of property is rezoned to R-B2 and the price of an acre goes from \$100,000 to \$400,000 does the tax base automatically go up on that to the B-2 standards or does it stay at the industrial standard value wise as long as Harvey Industries stays on there? Does anybody have an answer to that? If his taxes go up three fold because the land is valued at more now and he is reassessed he has to increase the prices on his windows a whole lot to make up the difference. Some time in the future could be two weeks or two months or two years but once the die is cast to rezone it sometime in the future could be tomorrow. 450 jobs. Big thing to think about. The attorney said there was a...somebody asked the question about the height from the extension of the Mall of NH and there is a 30' height difference and they didn't think anybody would be fooling with that. Well I think when they redo the Granite Street interchange over here on the highway the new exit that they did put in many years ago for the exit off of there for the northbound traffic, they drove pilings in there and put an exit in right by the river there. That 30' difference is a bulldozer and a couple of sticks of dynamite. That doesn't make any difference. The big question is...my feeling is that if this property is going to get sold that it get sold at the value that it has now and then it would be up to the new owner to come in and ask for it to be rezoned if they want to do something differently with it. What you are doing here is putting cash in somebody's pocket by rezoning ahead of time and I don't think that is right.

The Clerk presents the second proposed Zoning Ordinance changes:

“Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road.”

“Amending the Zoning Ordinance of the City of Manchester by amending Article 5, Section 5.10, G-6 of the Table of Principal Uses by inserting a “P” in the “IND-General Industrial/Industrial Park” column of item G-6 of the table.”

Chairman O'Neil requested that Robert MacKenzie, Director of Planning, make a presentation.

Mr. MacKenzie stated this particular property is on Candia Road. If you go up Candia Road under I-93 the new Wendy's is located on the opposite side of the street. This is a lot that doesn't have a lot of frontage but it does widen out and get larger as it goes southerly. In the vicinity you see the East Industrial Park. All of these industrial buildings are just to the East. There is mixed mostly industrial with a couple of commercial operations to the North. To the West is a single-family neighborhood in the Waverly Street area and to the South is a multi-family project so-called Eastgate Apartments, which is over 300 units. The proposal in this case is to change the zoning from IND Industrial to a portion of it being residential. You can

see it outlined here in red. In this case the applicant is suggesting a proposed project and the applicant can discuss that a little bit later but generally speaking this area in red would be more closely tied to the residential. The front half of the property would, in theory, be developed as a Dunkin Donuts. I would note that the proposal for just the Dunkin Donuts did go to the Zoning Board of Adjustment at one time and that was denied. I think there was concern at the ZBA about what could potentially go in behind the Dunkin Donuts. I would just note as background that I did meet with the applicant a couple of months ago to discuss some possibilities. I generally agree with the applicant that if you had an industrial property tucked in behind here that that could be detrimental to the neighborhood of Waverly as well as Eastgate. You can see how there is a pocket right here that extends in amongst the residential area. So certainly in that case if there was a heavy industrial in that area that could be detrimental to the residential. The applicant had originally talked about the potential of whether this strip along Candia Road, this property or others might go to a business zone. Again, I expressed some concern about that. This interchange works fairly well right now but any significant retail operations or strip/commercial auto sales could very quickly congest this area. This is an important strip of roadway because it provides access to one of our major industrial bases in the City. I have generally recommended against zoning this commercial. In this case he did suggest that the Dunkin Donuts could be allowed...the restaurant itself is allowed in this district because people frequently get coffee and donuts. What is not allowed in the district is a drive-up window and now a good percentage of a Dunkin Donuts business is by drive-up. He did suggest and at this point is asking the Board to consider changing the zoning to allow that restaurants, which are allowed, have drive-up windows. That is a quick summary and I would be happy to answer any questions of the Board.

Alderman Thibault asked can you tell me where the Boy Scout Office is in that area. Are we in that general area?

Mr. MacKenzie answered that would be further down on Holt Avenue. It is just a little bit off this map.

Alderman Lopez asked does this comply with Article IV of the ordinance, #5 on residential multi-family district as far as changing the zoning. I understand that I am reading 6.8 acres and in the ordinance we have “to hereby establish that an area not less than 10 acres”. Does that comply with the ordinance?

Mr. MacKenzie answered yes it would comply because there is an existing area of R-SM. The intent of that section originally would be that you wouldn’t have any small spot zones of multi-family within larger residential areas. In this case, you already have an established R-SM district with an established project though that would not be of issue...that particular portion of the ordinance would not be at issue here.

Alderman Lopez stated once again there is nothing in here in reference to Item 5 regarding the impact of putting in a multi-family or anything else in there. Even when it goes to the full Board and maybe it should go to the Committee and they should iron all of those things out, whatever the case may be but how can we make a decision when there is nothing on the impact to any City department whatsoever? I am really, really concerned about it and I don't know...the way the ordinance is read and once again I stress to you and the Board that we need to review this process because the Building Department is having a hard time keeping up with all of the changes that are going on. I know this is not the proper time to get into it but I am just making that point very clear. Nowhere have I read that you can include the other areas as far as making everything multi otherwise we might as well do that to every business in the City of Manchester and make everything B-2 and tear down buildings and everything else and that is exactly what we are doing here. We are incorporating other things to make this to what somebody else wants. I just don't understand it. I think we have to look back at this ordinance and get staff together because people are just coming in and asking us for something and we change it and then they go to the Planning Board and they tweak it a little bit. They should tweak everything before we make the decision because that is what is happening with the Planning Board after they get it. I don't think we have done our job really.

Mr. MacKenzie replied the Board can request any additional information that they would like to. In this case, I think it is reasonable to ask the applicant about the number of dwelling units he would be proposing and we are actually developing data for an impact fee ordinance update that would allow us to determine what the impact on the school system would be so I think it is definitely reasonable to request that information. If it is not going to Committee at some point then that information should be provided to the full Board.

Alderman Gatsas asked can you tell me why instead of a straight line running across there is a little hook in there.

Mr. MacKenzie answered yes. What they would be doing is proposing a small street...if there was a proposed Dunkin Donuts right here there would be a proposed street that would need a turn around bulb right there. So that little line is arced to go around a cul-de-sac.

Alderman Gatsas asked so what you are saying is the only entrance or exit would be through that street.

Mr. MacKenzie answered to that multi-family yes.

Chairman O'Neil stated you lost me on that one. The turn around is for what?

Mr. MacKenzie responded the turn around is required...if they are building a public street, which they would have to in this case to provide frontage to a new lot that this says they are

proposing and there is a sketch of it I believe in your records of what they would like to develop on the site, they would build a new street up along here and the City requires that at the end of a street you either have some type of hammer head turn around or a cul-de-sac. In this case they would be proposing a cul-de-sac turn around and they are proposing that the lines jog around that future cul-de-sac.

Alderman Shea asked, Bob, what is that area zoned as now.

Mr. MacKenzie answered industrial.

Chairman O’Neil called for those wishing to speak in favor.

Atty. Lazos stated I represent Konstantine Skrivanos and the group. A couple of questions...I can clarify the issue of the cul-de-sac and why the shape of the lot is the way it is. That is because the only access that we are going to have into the property is from a public street that we are going to construct that is going to run along this boundary and end at a cul-de-sac. Because this is a public street the lot line follows the cul-de-sac and we decided to have the zone line also follow the lot line. So that is the reason why we have that little jog there in the zone line because it follows the lot line. The proposal that we have before you is a very specific proposal. The land currently is vacant. It is covered with bushes, small trees and there are some wetlands along the Westerly line and in certain spots on the property. The current proposal is to construct a Dunkin Donuts in front of the property, which will access directly off of this new road and also a small branch bank immediately kiddy corner to the Dunkin Donuts and that will be it for the industrial side of the property. Both of the uses are permitted and as Mr. MacKenzie indicated, the variance request was based on the drive-thru not on the use itself because the restaurant is permitted in the business zone. Also as indicated by Mr. MacKenzie there was some issue of what could go in here in the rear and how that would affect abutters. The proposal on this plan that you all have in your package is to construct up to 80 apartment units on the site. Currently we are comfortable in showing two buildings, which could be expanded up to 40 units each with the accessory parking. The driveway for the project would come right off the west end of the cul-de-sac and work its way up. I think Mr. MacKenzie made it very clear that one of the issues that the City have, the planners have, is the impact on the existing residential abutters. We have a single-family area to the West and we have the existing...there is a cluster of apartments here and also a cluster of apartments up at the South end of the property. As you can see the lot is kind of a funny shape. It is sort of like a V shape and frankly it would be very difficult because of the V shape and also because of the existing wetlands that are here and also in the back with the required 25’ buffers that the City now requires to do very much with this property as an industrial site. In addition to the wetlands we also have ledge out croppings and issues of that type. So, given the shape and given the wetlands and given the residential abutters I think the planners and my clients came up with a reasonable alternative, which is extending the multi-family zone North so that everyone would be protected and

there would be a reasonable use of the property. That is the description of what we are planning to do and we anticipate that we could get started on the front part of the property as soon as we go through the Planning Board and that process. As I indicated previously, if the Board desires any additional information we would be happy to provide it to them.

Alderman Shea asked, Mr. Lazos, when you discussed this previously you indicated that in a multi-family type of situation according to your statistical data there aren't that many children in those areas, however, there are children in Eastgate now. Can you tell me how many children go to Weston School now from there?

Atty. Lazos answered I don't know. I wasn't anticipating that kind of analysis. Your comment is correct. There is a substantial amount of statistical information promulgated by HUD, which confirms that the ratio of school age children to apartments in these type of projects...I didn't mention that this will be affordable housing. This will be developed with that kind of housing in mind and I believe the ratio is .32 children per apartment unit is what HUD calculates. In my experience...I don't know about Eastgate...actually it is .37 children. I also represent the Waterford group, which is an apartment complex developer who owns a number of apartments in the area. One of them is over 270 units in Bedford and of that 270 units there are only 22 children in the whole project, which gives you an example of the fact that those statistics are actually pretty accurate, if not a little high in this area. If you would like, John Madden, I believe is the owner of the Eastgate project and I can give him a call and find out whether he has that information.

Alderman Shea stated I know that this will probably be discussed at a different level here but I think that what Alderman Lopez was alluding to about the impact on City municipal services and facilities, I think that this is somewhat critical because when we give a rezoning kind of approval then the next level, which is the Planning Board has to discuss all of these subjects as it were and I think that part of the problem is that we are sort of in a position where we don't really have all of the data that maybe we do have at this stage that would make for a valid type of judgement on our part if it were. I know that a proposal was made previous to refer this as you indicated to the Committee on Bills on Second Reading so that a lot of these situations can be discussed to the satisfaction of all concerned. I think, Mr. Chairman, that later on we could probably do that even though the present Chairman of that Committee is incapacitated.

Chairman O'Neil responded I believe and it may be appropriate...Carol would you pass on the message that you have.

Deputy Clerk Johnson replied Alderman Wihby did contact us this evening. He is with us in spirit from home. He did indicate that he would be happy to call a meeting of the Committee even though he can't attend the meeting certainly the Committee can meet if the Board so desires to refer it to Committee.

Alderman Shea responded thank you and I am glad he is watching Channel 22.

Alderman Thibault stated I have one little question. I noticed as you were talking, Mr. Lazos that Dick was going like this. To me that means no or he didn't understand that.

Mr. Dick Anagnost responded thank you and let me just clarify some things for you. The proposal is for workforce housing; not necessarily low-income housing and I wanted to make that distinction. Secondly, this concept was somewhat developed between conversations with myself and Mr. MacKenzie's staff, as well as Mr. Skrivanos, the owner. One of the things that this Board is painfully aware of after going through the Biron Street project with me is that there is very little or almost non-existent multi-family land left in Manchester to build and that we are in a housing crunch. When we looked at this parcel and we looked at its configuration and we laid out, I think, three heavy industrial buildings which would significantly impact both the residential development behind it and the residential development to the West of it. We figured that the best route to follow in this whereas the R-SM district was already in place and that project was already built out that the redistrict line would just be extended to the North to accommodate another potential project in Manchester to alleviate some of the housing crunch that we have faced over the last few years. I mean everyone is talking about jobs but we all know that you can't have jobs without housing. If you don't have housing for the people coming in...in that neighborhood alone I believe there are up to 1,100 new jobs proposed and where are you going to house these people. When we discussed the proposal with some of the industrial users, including that one in that zone, they were very excited about the fact that there was potential for housing directly adjacent to where a lot of these people would be working. So a lot of thought actually went into this process before coming before you tonight and I would be happy to answer any other questions regarding that.

Alderman Thibault stated I have one final update. Could you again tell me the ratio of children that you expect in this project? We are talking about how many units?

Mr. Anagnost replied we are talking about 60 to 80 units. What you see in front of you is a 30-unit footprint, two buildings, that could possibly be expanded up to 80 units depending upon wetland slopes and all of the things that we would be addressing at the Planning Board level. We feel comfortable that we could get 60. We feel that the potential maximum on the site is 80. That gives you a range of where we are there. Now HUD statistics and studies show over the last seven years that they have been carrying this that an apartment of this nature essentially generates .37 children per apartment. I can tell you that the 48 units on Eastern Avenue, although they are upper in market rate there are 12 school age children in 48 units. We checked that this afternoon before I came.

Alderman Thibault stated the reason I wanted that answer is because it certainly goes to Alderman Shea's question about how would the school in that area be able to handle that and what kind of an impact would it have on our schools. I just wanted to bring that out.

Alderman Pinard stated being the Alderman of that area and knowing that area the way I do after 40 years, one of the big demands in that area throughout East Park Drive and any shops and in the neighborhoods want a Dunkin Donuts. There is no question that there is a great need for that. You have my full support and again I know we are trying...well we need the tax base and this is surely going to increase it.

Chairman O'Neil asked the street that goes from Candia Road to the cul-de-sac. Is that going to be a City street or a private drive?

Mr. Anagnost answered it will be a public street.

Chairman O'Neil asked how about from the cul-de-sac to the apartments.

Atty. Lazos answered it will be a private drive.

Chairman O'Neil asked so it is a public street to the cul-de-sac so the only real City service will be putting a snowplow down in the winter. Just explain this drive-thru issue. You lost me a little bit. You have been through it once before or someone has been through it once before?

Atty. Lazos answered when the project was originally designed it showed a Dunkin Donuts with a drive-thru. A Dunkin Donuts of this size is allowed as a matter of right in the industrial zone. The variance requested was to allow a drive-thru. The ordinance has a quirk that even though the restaurants are allowed in an industrial zone of this size it requires a variance to permit a drive-thru. So my clients went to the ZBA and it was denied by a 3-2 vote. That is without any real...

Chairman O'Neil interjected so staying an industrial zone from us doesn't make any difference on the drive-thru issue. That is still a ZBA issue?

Atty. Lazos responded no. We have requested and with discussions with the Planning staff they felt that this restriction in the industrial zone for these kind of permitted restaurants is probably not justified and unnecessary because when you have a restaurant of these small sizes that are encouraged in the industrial zone they almost all have drive-thrus in order to be more convenient for people to use on their way to work and that sort of thing. For example, the Wendy's across the street has a drive-thru and they got their variance from the Zoning Board. It was a little bit of an odd result. It was a surprise result frankly and I think everyone realizes that the requirement for a variance for these kind of permitted uses, only in

the industrial zone, we are not changing that requirement anywhere else in any other zone but where you have basically industrial users around you most of the issues dealing with drive-thrus can be handled at the Planning Board level is the analysis.

Alderman Lopez stated I just want to make sure that I completely understand. You say that the Zoning Board or the Planning Board rejected the drive-thru.

Atty. Lazos responded the Zoning Board of Adjustment.

Alderman Lopez asked if this ordinance is approved that would give you the drive-thru.

Atty. Lazos answered that is correct.

Alderman Lopez asked so we are circumventing the Zoning Board. The Board of Mayor and Aldermen are changing the zoning in order to give you something that is not authorized now. For what reason did they tell you that they were not going to give you a drive-thru?

Atty. Lazos answered best on my discussions with my client the engineer who is present apparently the Zoning Board, after they had granted the Wendy's drive-thru, I guess a couple of members had changed and there was a concern apparently about Candia Road becoming another South Willow Street or some discussion like that. I think if you go out there and look at Candia Road you can make a quick determination that that is not a risk, especially since Mr. MacKenzie already pointed out that he has resisted B-2 zoning out there. It will stay industrial. The roadway works quite well and we believe that the design of the property, along with the new public street, which will basically limit access out to Candia Road for essentially three uses on the property to basically one driveway will work to alleviate any of those concerns. I don't think you should look at it as circumventing the ZBA. I think it is a question of what kind of issues do you want the ZBA to deal with versus the Planning Board and frankly I think a drive-thru for a restaurant that is already permitted should be something that the Planning Board, which has a number of regulations dealing with the minimum number of stacking spaces and questions about microphones and those types of things, which they do all the time is quite well able to handle.

Alderman Lopez stated I just want to point out that...

Mr. Anagnost interjected may I elaborate a little further on the issue surrounding the drive-thru. When we were planning out this site we said okay the Dunkin Donuts can fit in the front fairly comfortably. What else for services in that area is not being met and that is when the idea came through of the small branch bank. Again, we faced the same drive-thru issue because all of the requirements of the major banks now that put in the small branch banks require the ability to drive up to the ATM and actually do their banking. Even though the bank is allowed there by right in the industrial zone, again the drive-thru issue pops up with

that one as well. This isn't any effort to circumvent anybody. It is an effort to sort of modernize the ordinance to meet what the requirements are of the various users that could go into that zone to provide the services that the industrial park and the residential neighbors need in that area.

Alderman Lopez responded I don't have any particular problem with that other than...the problem that I have is if we do not get the full information on all of the requests for zoning. We don't have the situation from the Building Department. We don't have the situation totally. If you did not mention the drive-thru was refused by the Zoning Board we would have never known it. That is up to our staff to bring these things to our attention so that we can make a good logical decision. The Zoning Board has a fiduciary responsibility also and we don't get involved in it so if they are refusing something and all of the sudden we come back here and we are going to change the ordinance if it needs to be changed that is fine. My argument has been from the very first of this conversation and it has nothing to do with you gentlemen. It has to do with Article 16 of the amendments of the zoning ordinance that I don't think we fully and completely go through the process on our side of the house to make sure that developers like you have all of the necessary information that we can make a decision on. That is my only point. My only question to you and I think Mr. MacKenzie addressed it is Item 5, the impact on Highway, Traffic, and all of the necessary services in the City of Manchester. Are those impact statements going to be forthcoming? I hope so when it goes before Bills on Second Reading. Correct me if I am wrong but I don't think we vote tonight?

Deputy Clerk Johnson responded correct.

Alderman Lopez stated I hope when the final analysis comes that we have this information because if we don't have this information, I am not going to vote for it.

Chairman O'Neil responded Alderman Lopez the Planning Board usually gets all of that information, not the Board of Aldermen.

Alderman Sysyn stated that does come to the Planning Board. When they come to the Planning Board all of that stuff will come out and they will be requesting their drive-thru and their traffic study there.

Chairman O'Neil asked can we move this along. We are starting to cross into jurisdiction we don't have though to be honest with you.

Alderman Sysyn stated we are just changing the zoning.

Chairman O'Neil stated with respect to the guest we have here this evening that is a debate that we need to have not with them here.

Alderman Lopez stated I realize that but a point has to be clarified. I realize what the Planning Board and Zoning Board does but if we are going to say yes to a zoning change then we go by the zoning ordinance as to what has to be provided to us to make that decision. That is the point I want to make.

Alderman Pinard stated the Dunkin Donuts can be done very well because there will be two lanes going into Industrial Park and two lanes coming out so the traffic will be able to move very freely.

Alderman Gatsas stated in looking at this plan do I notice that there are two buildings on the front lot. Is that correct or incorrect?

Atty. Lazos answered there is a Dunkin Donuts in the front and kiddy corner to it there will be a branch bank. At least that is our hope that they have a small branch bank there with a drive-thru facility.

Alderman Gatsas asked and what I am looking at is a stacking...I assume the front one is the Dunkin Donuts because of the stacking and the three lanes is the bank...

Atty. Lazos interjected with additional stacking there. The site has been fully engineered to meet all of the stacking requirements of the City regulations and the ordinance. The ordinance actually specifically lists the number of stacking spaces required for a drive-thru.

Alderman Gatsas asked how many is it. Do I need to count them? It looks like 10.

Mr. Anagnost answered I thought it was 13 but don't count on my memory.

Atty. Lazos stated we showed 10 around that corner for the Dunkin Donuts because 10 is the minimum required. As you can see there is more room there to add additional cars as they come through the parking lot. As far as the bank, they just showed that it can stack five deep in each lane of the drive-thru. I forget how many are required for a non-restaurant stacking. I think it is five?

Alderman Gatsas responded 10. They changed that.

Mr. Anagnost asked may I point out one more thing, Mr. Chairman. It has to do with the ZBA application. I just want to clarify this for Alderman Lopez. When the ZBA saw this plan it didn't have a public street on which the bank and Dunkin Donuts would be emptying out onto. It was just a driveway curb cut coming directly into Dunkin Donuts. With the addition of that City street and the widening of Candia Road, it should address any and all traffic impact questions. That is just a point of clarification.

Alderman Forest stated I have a question for the Clerk. I believe this is a special meeting for a public hearing on these ordinances and I think we are getting out of our thing here with all of these questions. I think these things should be talked about or sent to Committee. That is what we are here for.

Chairman O’Neil responded well originally we opened tonight thinking that we weren’t going to be sending it to Committee. That is why we went in this direction and Alderman Wihby called in and said that he would try to do everything to send it to Committee.

Alderman Smith stated I request that we submit this to Bills on Second Reading.

Chairman O’Neil responded we are in still in the public hearing and we still have some people to speak.

Chairman O’Neil called for anyone else wishing to speak in favor.

There were none.

Chairman O’Neil called for those wishing to speak in opposition.

Mr. Billy Dodd, 181 Mammoth Road, Manchester stated:

Alderman Lopez makes some very, very good points over there. This is déjà vu all over again for any big development that is going on in this City. This Board has always gotten piece meal information. I think Alderman Lopez brought up a very good point that you need to know the answers to all of those questions that are going to be divvied out by the Zoning Board and the Planning Board. The impact fees. They are going to put in some apartment buildings there and I think that Mr. MacKenzie has made statements before...I believe the 25 to 27 kids K-12 per 100 units is about right. What are your impact fees? When was the last time you updated them? I know there was an individual on the Planning Board, my son, who started the ball rolling on updating the impact fees in this City and I think it is hiding somewhere now because I haven’t seen anything in the paper about it. Maybe you ought to consider those. If this piece of property is rezoned there is nothing that precludes the applicant from going back before the Planning Board and saying gee I want to redo everything that is inside this 7.6 acres. Now I want to put three buildings in there instead of two. Everything changes once you okay it. The Master Plan. The Master Plan had an industrial zone for a purpose – to be an economic engine to create jobs. Probably if I am not mistaken Eastgate was probably part of the industrial zone also and you whacked that piece off to make apartments. Maybe you ought to...if it is not broken don’t tinker with it. The negative impact on our tax base here, you are going to be creating additional kids for school and that is going to require more services. If that land is industrial it is a positive for the City. We get a tax and we don’t have to provide any additional services to the schools or

anything and that is what is killing us – the schools. Mr. Gatsas brought up an interesting point in the previous hearing. My question is why isn't the applicant right now asking you to rezone the front portion where the bank and the Dunkin Donuts is going to be. I don't know if the B-2 business is the correct zoning for that but if the industrial land is worth \$100,000/acre and the B-2 land is worth \$400,000/acre why isn't this applicant asking you to rezone the front portion so I can pay you more taxes? He wants to have a business sitting on industrial land so you are not getting the additional tax revenue off of the value of the land. It doesn't make sense. The minimal acreage...I think Alderman Lopez also brought this up. The minimal acreage under the ordinance to rezone for the multi-family is 10. He only has 7.6 here. You can't include it with anything else that is around it. I don't care if the single-family house is on one side off of Waverly or Eastgate over here. This is an entirely separate lot all by itself and if 7.6 acres doesn't add up to 10 and that is what the ordinance says then Mr. Lopez has a very valid point. Daytime use...if you go down Industrial Park Drive, a lot of those buildings down on the right hand side are like little shops and warehouse type things where the activity goes on during the daytime. So most of the people who live at Eastgate or over on Waverly, they are going to be at work and most of those places prefab things inside and take them out and put them together on different jobs so most of the things if this land stays industrial most of the activity in there is going to be in the daytime. It is not going to affect the people at night that much. The stacking. I believe your stacking...you guys are counting cars from where the pick-up window is but I believe your stacking ordinance starts from where the speaker or the order window is so maybe you ought to look at that one. It comes in line with knowing the answers to questions that are going to come up before the other Boards. Again, once you rezone this anything can change for a configuration on that property as far as buildings go. Again, up front if you want the maximum amount of tax revenue out of this piece of property you get that rezoned to a business and now you are paying the full property tax on it and not having business sitting on industrial land valued at less money. You have a lot of questions to ask and again you guys are getting information piece meal to you and you are going to take a step and who knows what is going to happen. Just keep some of those questions in mind. Alderman Lopez and Alderman Gatsas, thanks for asking a lot of questions.

Chairman O'Neil advised that all wishing to speak having been heard, the testimony presented will be referred to the Committee on Bills on Second Reading to be taken under advisement with reports to be made to the Board of Mayor and Aldermen.

This being a special meeting, no further business was presented and on motion of Alderman Pinard, duly seconded by Alderman Sysyn, it was voted to adjourn.

A True Record. Attest.

City Clerk